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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/782,049

02/19/2004

Kevin Murphy

KMURPH-008XX

5738

7590

12/10/2004

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EXAMINER

FRIEDHOFER, MICHAEL A

ART UNIT

PAPER NUMBER

2832

DATE MAILED: 12/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/782,049	Applicant(s) MURPHY, KEVIN	
	Examiner Michael A. Friedhofer	Art Unit 2832	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claim 21 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 21 does not further the claimed subject matter since the limitation claimed may already be found in claim 19.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-21 are rejected under 35 U.S.C. 102(b) as being anticipated by McAlindon.

McAlindon discloses in figures 1-8 a system for assisting physically challenged users in operating at least one device including frame 28; at least one user operable switch lever 82 having a generally large activation region 404 movable between a first position and a plurality of second positions on the frame and is "rotatably" or pivotably mounted to the frame; at least one switch 83 operatively connected to the at least one switch lever for energizing the at least one device; at least one tensioning device 87 coupled to the lever for applying tension in a first direction to the at least one switch lever and for holding the lever under

tension in the first position but allowing the at least one switch lever to be moved by the user into the second position to energize the at least one device and for returning the at least one lever to the first position; and switch lever range adjuster 79, 80, and 81 for adjusting the at least one switch lever's range of motion between the first position and the second position. While not shown, there are means for connecting the at least one switch to the at least one device. The tensioning device is adjustable to adjust the tension required to move the lever from the first position to the second position. The frame may be located proximate the user's extremities. As for the type of means utilized to connect the switch to the device, this is a matter of engineering design choice not affecting the structure, operation, or purpose of the device in which any well known method, such as, wires or rf devices would be usable based on the availability to the manufacturer and the type of device to be operated. As for the type of tensioning member, any type of tensioning member, such as, a rubber band or the spring of McAlindon could be utilized to perform the same operation and would be based on the desires of the manufacturer and the availability of the different types of tensioning member. As for the type of device to be operated, this is a matter of engineering design choice in which the structure would not be altered by the device to be operated only the defining of the different positions.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Flowers et al, Scott-Jackson et al, Heidelberger et al, and

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McCarthy et al teach various switch structures to be operated by physically challenged individuals.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael A. Friedhofer whose telephone number is 571-272-1992. The examiner can normally be reached on Mon-Fri 6:00 - 2:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Elvin Enad can be reached on 571-272-1990. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Michael A. Friedhofer
Primary Examiner
Art Unit 2832

maf